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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,198	05/25/2001	Nicholas H. Des Champs		1689

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Clyde I. Coughenour
16607 Sutton Place
Woodbridge, VA 22191

EXAMINER

FADOK, MARK A

ART UNIT PAPER NUMBER

3625

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,198

Applicant(s)

DES CHAMPS, NICHOLAS H. *90*

Examiner

Mark Fadok

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/25/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

The examiner acknowledges that no drawings have been filed with the application.

Claim Objections

Claims 11 and 17 are objected to because they contain sentence-ending periods with in the claims, appropriate correction is required.

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 4,7-11,14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Abhyanker (2002/0133416).

In regards to claim 1, Abhyanker discloses providing a repository for collecting information on materials, sizes and thicknesses available by first fabrication parties (FIG 3, item 302);

providing a repository for collecting information on materials, sizes and thickness needs of second user parties (FIG 3, item 302);

providing a means for communicating said materials, sizes, and thicknesses available to said second user parties and said materials, sizes, and thicknesses needed to said first fabrication parties to each other (FIG 4);

providing a means for receiving responses to said materials, sizes, thicknesses available from said first fabrication parties and said materials, sizes, thicknesses needed by said second user parties (FIG 4);

communicating said responses to an appropriate said first party or said second party (FIG 4).

In regards to claim 2, Abhyanker teaches processing offers from said second parties to have work performed by said first parties; (FIG 6, item 618)

In regards to claim 3, Abhyanker teaches negotiating agreements between said first parties and said second parties for offers made (para, 0070).

In regards to claim 4, Abhyanker teaches processing offers from said first parties to perform work for said second parties (FIG 6, item 618).

In regards to claim 7, Abhyanker teaches providing a means for communicating said materials and sizes availabilities of said first parties and said materials and size availabilities of said second parties on a worldwide basis (FIG 3, item 302).

In regards to claim 8, Abhyanker teaches marketing products between buyer and sellers, negotiating terms and informing the buyer of condition of items to be purchased along with refurbishment possibilities (summary and FIG 6 and 7), but does not specifically mention the specific embodiment of determining scrap sizes and matching sizes available or that coincide with a users needs. It would have been an obvious matter of design choice to include determining scrap sizes and matching sizes available or that coincide with a users needs, because the applicant has not disclosed that limiting the purchasing system of Abhyanker to only determining scrap sizes and matching sizes available or that coincide with a users needs solves any stated problem

or is for any particular purpose and it appears that the invention would perform equally well selling scrap items that coincide with the needs of others. It would have been obvious to a person having ordinary skill in the art to include selling residual material from items being produces because this offers the seller the opportunity to rid themselves of parts that would accumulate or be scraped, thus clearing the supply chain to produce more profitable product to their main customer (summary).

In regards to claim 9, Abhyanker teaches brokering an agreement between one of a said first parties and one of said second parties to cooperatively reduce said scrap amount (see response to claim 8 and FIG 3).

In regards to claim 10, Abhyanker teaches negotiating any disputes that arise between one of said first parties and one of said second parties (para 0070, escrow services).

In regards to claim 11, Abhyanker teaches matching said work to be done size and materials of said second parties with said potential scrap size and materials of said first parties;

informing said first parties and said second parties of the needs and availabilities of the other's materials and size availabilities that overlap or coincide,

using a worldwide database to inform said first parties and said second parties of the other's needs and availabilities;

brokering an agreement between one of a said first parties and one of said second parties to cooperatively reduce said scrap amount (see response to claims 7,8 and 9).

In regards to claim 14, Abhyanker teaches tracking production and shipping scheduling for timeliners (FIG 5, item 508).

In regards to claim 15, Abhyanker teaches reviewing work for quality compliance (para 0072).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,6,12,13,16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abhyanker in view of Official Notice.

In regards to claim 5, Abhyanker teaches bids and performing secondary fabrication (FIG 6), but does not specifically mention tabulating said bids to fabricate work products and communicating acceptable bids to fabricate to a said second party. It

was old and well known in the art to offer lists to buyers from potential sellers so a buyer can select and negotiated the best deal (buyer driven auctions). It would have been obvious to a person having ordinary skill in the art to include in Abhyanker having an option to propose additional work to improve the product for sale (ex. Refurbishment), because the user may not have the ability to do the work themselves and this would also save the buyer time by not having to send the product to an additional site to have it put in condition for the next assembly usage.

In regards to claim 7, Abhyanker teaches said responses may be in the form of bids by a said second party for having work products fabricated;

including tabulating said bids to have work fabricated and communicating acceptable bids to a said first party (see response to claim 5).

12. A scrap reduction procedure as in claim 1 including: providing assistance to said first parties and said second parties in ordering and invoicing transactions (FIG 8).

In regards to claim 13, Abhyanker teaches providing services including an escrow that holds payment till credit clears, but does not specifically mention performing credit checks for said first and second parties. It was old and well known at the time of the invention to offer credit checks as a service to both buyer and seller. It would have been obvious to a person having ordinary skill in the art to include in Abhyanker, providing credit checks, because this would provide the buyers and sellers some

confidence in who they were dealing with if a third trusted party qualified both the user and seller.

In regards to claim 16, Abhyanker teaches providing a means for communicating said materials and sizes available from said first parties and said materials and sizes needed by said second parties on a worldwide basis;

negotiating agreements between said first parties and said second parties for offers made;

performing credit checks for said parties;

providing assistance to said first parties and said second parties in ordering and invoicing transactions;

reviewing work for quality compliance;

tracking production and shipping scheduling for timeliners (see response to claims 7,10,12,13,14, and 15).

In regards to claim 17, Abhyanker teaches performing credit checks for said first and second parties,

tracking production and shipping scheduling for timeliners, reviewing work for quality compliance (see response to claims 13,14 and 15).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vincent Millin** can be reached on **(703) 308-1065**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-7206 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

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A handwritten signature in black ink, appearing to read 'Mark Fadok', followed by a long horizontal line extending to the right.

Mark Fadok

Patent Examiner